

Application/Control Number: 10/784,416
Art Unit: 3733

REMARKS

Claims 1, 7 and 10 have been amended to state that the band portion has a concave cross section along a majority of its longitudinal axis. Support for this can be found in Figure 1. Accordingly, no new matter is involved.

In the previous office action, the Examiner rejected claims 1-13 under 35 U.S.C. 102 (b) as being anticipated by WO 86/04498 to Hallberg. Specifically, the Examiner stated:

"Hallberg discloses an implantable surgical device having a deployed shape and an undeployed shape, said device comprising: an elongated flexible and substantially inextensible band portion (7) having a distal end, a proximal end and a longitudinal axis therebetween, said band portion being attached to said inflatable portion along an inner face thereof (FIG.1) wherein when said device is in its undeployed shape at least a portion of said band portion has a concave cross section, taken perpendicular to said longitudinal axis; wherein said inflatable portion and said band portion are integrally manufactured as one part (page 3, lines 25-26); wherein said band portion in its deployed shape has a substantially flat cross section (Page 3, lines 20-23), taken perpendicular to said longitudinal axis; wherein said band portion is at least partially made from at least one of silicone and polyurethane (Page 4, lines 12-17); further comprising a means for attaching said distal and proximal ends of said band together (: an injection port (6) in fluid communication with said inflatable portion."

In addition, the Examiner rejected claims 1-3, 5-7, 9-12 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,601,604 to Vincent. Specifically the Examiner stated:

"Vincent discloses an implantable surgical device having a deployed shape and an undeployed shape, said device comprising: an elongated flexible inflatable portion (16); and an elongated flexible and substantially inextensible band portion (11) having a distal end, a proximal end and a longitudinal axis therebetween, said band portion being attached to said inflatable portion along an inner face thereof (FIG. 1), wherein when said device is in its undeployed shape at least a portion of said band portion has a concave cross section, taken perpendicular to said longitudinal axis; wherein said inflatable portion and said band portion are integrally manufactured as one part (Column 3, lines 2-5) wherein said band portion in its deployed shape has a substantially flat cross section (FIG. 2), taken

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perpendicular to said longitudinal axis; further comprising a means for attaching said distal and proximal ends of said band together (13, 19); an injection port (14) in fluid communication with said inflatable portion."

All of the claims of the present Application recite the limitation of:

"said band portion has a concave cross section taken perpendicular to said longitudinal axis"

This concave nature is clearly shown in the cross-section of figure 2. Nowhere in the Examiner's description of the two above referenced prior art documents does he point out this feature. In fact, this feature is not disclosed by the prior art references cited by the examiner. To make this feature more clear, the claim has been amended to state that the band portion has this concave cross section "along a majority of its longitudinal axis".

Applicants submit that all claims are now fully allowable over the prior art cited by the Examiner. Therefore, Applicants respectfully request that the Examiner re-examine and favorably reconsider Applicants' claims in the form of a Notice of Allowance.

Respectfully submitted,

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